

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 54

Introduced by Brashear, 4

Read first time January 7, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal procedure; to amend sections
2 29-2259 and 29-2261, Reissue Revised Statutes of
3 Nebraska; to provide funding for interpreter services
4 during presentence investigations; to harmonize
5 provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2259, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 29-2259. (1) The salaries, actual and necessary
4 expenses, and expenses incident to the conduct and maintenance of
5 the office shall be paid by the state. Actual and necessary
6 expenses shall be paid as provided in sections 81-1174 to 81-1177.

7 (2) The salaries and actual and necessary travel expenses
8 of the probation service shall be paid by the state. Actual and
9 necessary expenses shall be paid as provided in sections 81-1174 to
10 81-1177.

11 (3) Except as provided in sections 29-2262 and
12 29-2262.04, the costs of drug testing and equipment incident to the
13 electronic surveillance of individuals on probation shall be paid
14 by the state.

15 (4) The expenses incident to the conduct and maintenance
16 of the principal office within each probation district shall in the
17 first instance be paid by the county in which it is located, but
18 such county shall be reimbursed for such expenses by all other
19 counties within the probation district to the extent and in the
20 proportions determined by the Supreme Court based upon population,
21 number of investigations, and probation cases handled or upon such
22 other basis as the Supreme Court deems fair and equitable.

23 (5) Each county shall provide office space and necessary
24 facilities for probation officers performing their official duties
25 and shall bear the costs incident to maintenance of such offices
26 other than salaries, travel expenses, and data processing and word
27 processing hardware and software that is provided on the state
28 computer network.

1 (6) The probation administrator shall prepare a budget
2 and request for appropriations for the office and shall submit such
3 request to the Supreme Court and with its approval to the
4 appropriate authority in accordance with law.

5 (7) The cost of interpreter services for deaf and hard of
6 hearing persons and for persons unable to communicate the English
7 language shall be paid by the state with funds appropriated to the
8 Supreme Court for that purpose. Interpreter services shall include
9 auxiliary aids for the deaf and hard of hearing as defined in
10 section 20-151 and interpreters to assist persons unable to
11 communicate the English language as defined in section 25-2402.
12 Interpreter services shall be provided under this section only for
13 the purposes of conducting a presentence investigation.

14 Sec. 2. Section 29-2261, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 29-2261. (1) Unless it is impractical to do so, when an
17 offender has been convicted of a felony, the court shall not impose
18 sentence without first ordering a presentence investigation of the
19 offender and according due consideration to a written report of
20 such investigation.

21 (2) A court may order a presentence investigation in any
22 case.

23 (3) The presentence investigation and report shall
24 include, when available, an analysis of the circumstances attending
25 the commission of the crime, the offender's history of delinquency
26 or criminality, physical and mental condition, family situation and
27 background, economic status, education, occupation and personal
28 habits, and any other matters that the probation officer deems

1 relevant or the court directs to be included. All local and state
2 police agencies and adult and correctional institutions shall
3 furnish to the probation officer copies of such criminal records,
4 in any such case referred to the probation officer by the court of
5 proper jurisdiction, as the probation officer shall require without
6 cost to the court or the probation officer.

7 Such investigation shall also include:

8 (a) Any written statements submitted to the county
9 attorney by a victim; and

10 (b) Any written statements submitted to the probation
11 officer by a victim.

12 (4) If there are no written statements submitted to the
13 probation officer, he or she shall certify to the court that:

14 (a) He or she has attempted to contact the victim; and

15 (b) If he or she has contacted the victim, such officer
16 offered to accept the written statements of the victim or to reduce
17 such victim's oral statements to writing.

18 For purposes of subsections (3) and (4) of this section,
19 the term victim shall be as defined in section 29-119.

20 (5) Before imposing sentence, the court may order the
21 offender to submit to psychiatric observation and examination for a
22 period of not exceeding sixty days or such longer period as the
23 court determines to be necessary for that purpose. The offender
24 may be remanded for this purpose to any available clinic or mental
25 hospital, or the court may appoint a qualified psychiatrist to make
26 the examination. The report of the examination shall be submitted
27 to the court.

28 (6) The use of any interpreter services for deaf and hard

1 of hearing persons and persons unable to communicate the English
2 language, which services are needed to complete the presentence
3 investigation and report, shall be paid for as provided in section
4 29-2259.

5 (7) Any presentence report or psychiatric examination
6 shall be privileged and shall not be disclosed directly or
7 indirectly to anyone other than a judge, probation officers to whom
8 an offender's file is duly transferred, or others entitled by law
9 to receive such information. The court may permit inspection of
10 the report or examination of parts thereof by the offender or his
11 or her attorney, or other person having a proper interest therein,
12 whenever the court finds it is in the best interest of a particular
13 offender. The court may allow fair opportunity for an offender to
14 provide additional information for the court's consideration.

15 ~~(7)~~ (8) If an offender is sentenced to imprisonment, a
16 copy of the report of any presentence investigation or psychiatric
17 examination shall be transmitted forthwith to the Department of
18 Correctional Services or, when the defendant is committed to the
19 custody of a specific institution, to such institution.

20 Sec. 3. Original sections 29-2259 and 29-2261, Reissue
21 Revised Statutes of Nebraska, are repealed.